

U.S. HOUSE OF REPRESENTATIVES
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WASHINGTON, DC 20515

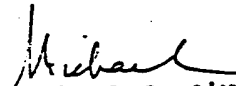
May 15, 1986

Mr. James Pierce Myers
Deputy General Counsel
Committee on Post Office
and Civil Service
309 Cannon
Washington, D. C. 20515

Dear Pierce:

Enclosed is the Statement of Managers
language for the CIA provisions of the
retirement bill. Please call me if you
have any questions.

Sincerely,


Michael J. O'Neil
Chief Counsel

Enclosure

HPSCI May 15, 1986
H.R. 2672, Federal Retirement

DRAFT STATEMENT OF MANAGERS LANGUAGE FOR TITLE IV, CIA RETIREMENT
AND RELATED MATTERS

[Drafting Note: The Statement of Managers language contained below is keyed to the Senate Legislative Counsel's Draft 079920.195 of Title IV, CIA Retirement and Related Matters. Statement of Managers language explaining provisions in Title IV of that draft subsequently moved outside Title IV must be moved to the corresponding new section of the Statement of Managers. In addition, internal references must be adjusted accordingly.]

Title IV of the conference report addresses federal employee retirement benefits for officers and employees of the Central Intelligence Agency (CIA). One section of Title IV also addresses a related matter involving very limited numbers of National Security Agency (NSA) employees and Defense Intelligence Agency (DIA) employees.

After enactment of the Federal Employees' Retirement System Act of 1986, employees of the Central Intelligence Agency will generally fall into four basic categories, each with differing retirement benefits and obligations:

1) CSRS Participants. Most Central Intelligence Agency employees whose federal service began before December 31, 1983 participate in the Civil Service Retirement System maintained under subchapter III of chapter 83 of Title 5, United States Code. These CIA employees enjoy the same benefits as federal employees in other agencies who participate in the Civil Service Retirement System.

(2) CIARDS Participants. In 1964, Congress enacted the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) to establish a CIA Retirement and Disability System

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(CIARDS) for CIA employees whose duties are "(i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment" (Sec. 203 CIA, Retirement Act). The CIA employees participating in the CIARDS receive retirement benefits superior to those provided generally by the CSRS, benefitting in particular from a higher annual pension accrual rate and an option for early retirement. The group of CIARDS participants will consist of CIA employees whose federal service began prior to December 31, 1983 who are, or who will become eligible (whether before, on or after December 31, 1983), to participate in CIARDS in accordance with the CIA Retirement Act and implementing regulations.

(3) FERS Regular Participants. Central Intelligence Agency employees whose federal service began after December 31, 1983 will participate in the Federal Employees' Retirement System (FERS) established under the new chapter 84 of Title 5, United States Code. Unless they fall within the special category of CIA employees who qualify for FERS treatment equivalent to that accorded law enforcement officers, the CIA employees covered by the FERS will incur the same obligations and receive the same benefits as do most federal employees covered by the FERS.

(4) FERS Section 203 Criteria Participants. The CIA employees whose federal service began after December 31, 1983 (and who therefore participate in the FERS) and who meet the criteria prescribed under Section 203 of the CIA Retirement Act, namely that their CIA duties are "(i) in support of Agency activities abroad hazardous to life or health or

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(ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment," will incur the same obligations and receive the same benefits as do federal employees covered by the FERS who are law enforcement officers. The FERS accords preferential benefits to law enforcement officers in comparison to most other types of federal employees, and thus CIA's FERS Section 203 criteria participants will receive preferential benefits in comparison to CIA FERS regular participants.

The conferees agreed that, to improve the security of intelligence sources, methods and activities, the CIA should administer all federal retirement systems as they apply to CIA officers and employees. The conference report provides for such CIA administration. Providing for CIA administration of retirement systems as they apply to CIA employees reduces unnecessary dissemination within the government of intelligence personnel information, improving security. The administration of the retirement systems by CIA as to CIA employees will not differ substantively from OPM administration of such systems with respect to other federal employees. The benefits and obligations of CIA employees and non-CIA employees within a retirement system will not differ; only the agencies administering the system as to those employees will differ. As a result of provisions of the conference report providing for CIA administration of the CSRS and the FERS with respect to CIA employees, all aspects of retirement system administration with regard to CIA employees will remain completely within the CIA, except for Merit Systems Protection Board and federal court review of certain adverse

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retirement decisions made by the DCI with respect to CIA CSRS and regular FERS employees. The conferees expect the MSPB and the federal courts to conduct such proceedings in a manner consistent with the protection of intelligence sources, methods and activities. The conferees also expect close cooperation among OPM, the Executive Director of the Thrift Investment Board, and the DCI to ensure both uniform administration of federal retirement systems and the protection of intelligence sources, method and activities, particularly as the conference report provides for OPM and Executive Director, Thrift Investment Board inspection and audit of CIA-related disbursements from the Civil Service Retirement and Disability Fund and the Thrift Savings Plan.

Section-by-Section Explanation

Title IV of the conference report addresses Central Intelligence Agency retirement and related matters. Title IV consists of Sections 401 through 407 amending the Central Intelligence Agency Retirement Act of 1964 for Certain Employees and Title 5 of the United States Code.

Section 401: References

Section 401 of the conference report amends the CIA Retirement Act of 1964.

Subsection 401(1) amends Section 201(c) of the CIA Retirement Act to make clear that the provisions of Section 201(c), which provide for the finality and unreviewability of DCI administration of the CIA Retirement Act, do not override the provision of Section 305(d) of the CIA Retirement Act (enacted by

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Section 406 of the conference report) which permits CIA regular FERS employees to appeal certain adverse retirement determinations made by the DCI to the Merit Systems Protection Board and the federal courts in accordance with section 8461(e) of Title 5 (as enacted by Section 101 of the conference report).

Subsection 401(2) replaces the phrase "this Act" each place it appears in Title II of the CIA Retirement Act with the phrase "this title" (except in two specified sections), which is necessitated by the addition of a new Title III to the CIA Retirement Act by Section 406 of the conference report.

Subsection (3) of Section 401 inserts the phrase "under this title" in Title II of the CIA Retirement Act after the phrase "payable from the fund" (meaning the CIA Retirement and Disability Fund) each place it appears in the title, which is necessitated by the addition of a new Title III to the CIA Retirement Act by Section 406 of the conference report.

Section 402: Contributions to the CIA Retirement and Disability System

Section 402 of the conference report amends Section 211 of the CIA Retirement Act of 1964.

Subsection 402(1) amends Section 211 of the CIA Retirement Act to provide for an exception from the CIARDS contribution requirement of seven percent of basic salary contained in Section 211(a) for participants described in new subsection 211(d) of the CIA Retirement Act as enacted by subsection 402(2) of the conference report.

Subsection 402(2) adds to Section 211 of the CIA Retirement Act a new subsection (d) providing for contributions to the CIA Retirement and

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Disability Fund by CIARDS participants subject to title II of the CIA Retirement Act before January 1, 1984 whose service is employment for purposes of Title II of the Social Security Act and the social security tax provisions of the Internal Revenue Code but whose service is not creditable service under the new Federal Employee Retirement System. Such individuals would be CIARDS annuitants (who were participants before January 1, 1984) who are recalled to service after a one year break in service, political appointees, or individuals described in Section 301(c)(1) of the CIA Retirement Act. The conferees intend that this provision not apply to any individuals other than individuals who fall within one of these categories. The contribution due to the CIA Retirement and Disability Fund from such an individual is equal to seven percent of basic pay, less the amount of social security taxes deducted and withheld from basic pay.

Section 403: Offset of Annuity by Amount of Social Security Benefits

Section 403 of the conference report amends Section 221 of the CIA Retirement Act of 1964 by adding a new subsection 221(p). Subsection 221(p) provides that the annuity payable under CIARDS to an individual described in Section 301(c)(1) of the CIA Retirement Act (as enacted by Section 406 of the conference report) shall be offset by the amount of the individual's Social Security benefits, in the manner provided by section 8349 of Title 5, United States Code (as enacted by Section 201(b) of the conference report). An individual described in Section 301(c)(1) of the CIA Retirement Act is one who separates, or has separated, from federal service after having been a CIA employee subject to CIARDS and having completed at least 5 years of civilian

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service creditable under CIARDS. The social security offset under subsection 221(p) does not apply to the annuity of an individual described in Section 301(c) (1) who has elected to participate in the new FERS.

Section 404: Thrift Savings Fund Participation by Participants in the CIARDS

Section 404 of the conference report adds a new Section 293 to the CIA Retirement Act of 1964. Section 293 permits CIARDS participants to remain in CIARDS and to elect to participate in the Thrift Savings Plan on the same basis as CSRS participants may remain in the CSRS and elect to participate in the Thrift Savings Plan under Section 8350 of Title 5, United States Code (as enacted by the conference report). Section 293 also provides that Section 305 of the CIA Retirement Act (as enacted by Section 406 of the conference report) applies with respect to contributions to the Thrift Savings Plan, and resultant earnings, by CIA employees who have elected, while remaining in the CIARDS or the CSRS, to participate in the Thrift Savings Plan. The application of Section 305 of the CIA Retirement Act by cross-reference ensures that the DCI will handle all administration with respect to CIARDS and CSRS participants who have elected to participate in the Thrift Savings Plan.

Section 405: Alternative Forms of Annuities

Section 405 of the conference report add a new section 294 to the CIA Retirement Act of 1964 to authorize the DCI to provide by regulation for alternative forms of annuities for CIARDS participants to elect upon retirement. To the maximum extent practicable, the regulations and the alternative forms of annuities must meet the requirements prescribed in

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Section 8343a of Title 5, United States Code (as enacted by the conference report). The DCI must submit the regulations to the intelligence committees of the Congress before they take effect.

Section 406: Participation in the Federal Employees' Retirement System

Section 406 of the conference report enacts a new Title III of the CIA Retirement Act of 1964 for Certain Employees, consisting of Sections 301 - 307.

Section 301 of the CIA Retirement Act provides for application to certain CIA employees of the Federal Employee Retirement System established under chapter 84 of Title 5, United States Code (as enacted by Section 101 of the conference report).

Subsection 301(a) provides that the FERS applies to all Agency personnel any of whose service after December 31, 1983 is employment for purposes of Title II of the Social Security Act and the social security tax provisions of the Internal Revenue Code, except as provided in subsections 301 (b) and (c).

Subsection 301(b) provides that CIARDS participants who were CIARDS participants on or before December 31, 1983, and who have not had a one year break in service since then, are not subject to the FERS, without regard to whether they are subject to Title II of the Social Security Act.

Subsection 301(c) provides that the FERS does not apply to an individual who separates, or has separated, from federal service after having been a CIA employee subject to CIARDS and having completed at least 5 years of civilian service creditable under CIARDS, unless the individual elects to become subject to the FERS.

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Subsection 301(d) provides that the provisions of chapter 84 of title 5 (as enacted by Section 101 of the conference report), which establishes the FERS, apply to CIA employees covered by the FERS, subject to any exceptions and special rules provided in Title III of the CIA Retirement Act with respect to such CIA employees.

Section 302 of the CIA Retirement Act provides special rules for CIA FERS Section 203 criteria employees.

Subsection 302(a) provides that CIA employees subject to the FERS who are designated by the DCI under the criteria prescribed in Section 203 of the CIA Retirement Act shall be treated for purposes of their retirement benefits and obligations under the FERS as if they were law enforcement officers as defined in section 8401(17) of Title 5, United States Code (as enacted by Section 101 of the conference report). The conferees emphasize that CIA personnel are not law enforcement officers, and indeed, are prohibited by Section 102(d) (3) of the National Security Act from exercising law enforcement powers (except for CIA Security Protective Service personnel who have law enforcement powers under Section 15 of the CIA Act of 1949 within CIA installations). The CIA FERS Section 203 criteria employees are merely to be treated as if they were law enforcement officers for purposes of determining their FERS retirement benefits and obligations. The criteria of Section 203 of the CIA Retirement Act to which the section refers permit designation of CIA FERS employees for retirement treatment equivalent to law enforcement officers if the CIA employees' duties are "(i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment."

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Subsection 302(b) provides that the voluntary retirement provisions applicable to CIARDS participants under Section 233 of the CIA Retirement Act also apply to CIA FERS Section 203 criteria employees and that the mandatory retirement provisions applicable to CIARDS participants under Section 235 of the CIA Retirement Act also apply to CIA FERS Section 203 criteria employees, except that the applicable retirement benefits are those specified for such special category employees under the FERS in chapter 84 of Title 5, United States Code. Section 233 of the CIA Retirement Act permits voluntary retirement by an employee who is at least 50 years of age and has rendered 20 years of service provided the employee has not less than ten years of Agency service, of which at least five years shall have been service after designation, or shall have been service prior to designation consisting of duties meeting the criteria prescribed in Section 203 of the CIA Retirement Act. Section 235 of the CIA Retirement Act permits mandatory retirement of a designated employee who has completed at least 25 years of service, or who has completed 20 years of service and is at least 50 years of age, provided such employee has not less than ten years of Agency service, of which at least five years shall have been service after designation, or shall have been service prior to designation consisting of duties meeting the criteria prescribed in Section 203 of the CIA Retirement Act. Section 235 also provides for automatic separation from the Agency at age 60 of a Section 203-designated Agency employee receiving compensation at less than the GS-18 level and for automatic separation of such an employee at age 65 if such employee is receiving compensation at the GS-18 level or above, subject to extensions by up to a total of five years by the DCI when it is in the public interest. A

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Section 203-designated Agency employee who is automatically separated at age 60 or 65 receives retirement benefits under the applicable retirement system if the employee has completed five years of Agency service.

Subsection 302(c) provides that the recall provisions applicable to CIARDS participants under Section 271 of the CIA Retirement Act also apply to CIA FERS Section 203 criteria employees, except that a CIA FERS Section 203 criteria employee makes contributions during recall service as provided in section 8422 of Title 5, United States Code (as enacted by Section 101 of the conference report). When a CIA FERS Section 203 criteria employee recalled to service subsequently reverts to a retired status, his FERS annuity is redetermined.

Section 303 provides a special rule for use in determining the FERS annuity of a retiring CIA employee who is not a FERS Section 203 criteria employee and who has served outside the United States during his Agency service. The portion of such annuity relating to service abroad performed by such employee after the effective date of the Federal Employees' Retirement System Act of 1986 is based on the higher accrual rate set forth in Section 8415 of Title 5, United States Code (as enacted by Section 101 of the conference report), while the portion of the annuity of such employee relating to other service is based on the normal FERS accrual rate applicable to that employee's other service. The conferees provided the accrual rate increase for periods of service abroad for regular CIA FERS employees because such employees, during their service abroad, perform work substantially similar to that of FERS Section 203 criteria employees, and should thus enjoy equivalent pension accrual rights during that period as a matter of equity..

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Section 304 provides special rules relating to certain former spouses of certain CIA personnel. The conferees' intention is to preserve the existing regime of benefits for former spouses of CIA personnel, subject to necessary technical changes. The term "former spouse" as defined in the CIA Retirement Act (Section 204(b)(4)) incorporates the requirement, applicable throughout the new Title III of the CIA Retirement Act that, to be considered a "former spouse," the former wife or husband of a CIA employee must have been married to the CIA employee for not less than 10 years of Agency service, at least 5 years of which were spent outside the United States by both the employee and the spouse (the "10/5 requirement"). As a result of Section 304, CIA FERS employees' former spouses, who meet the 10/5 requirement, receive former spouses benefits analogous to those received by CIA CIARDS and CSRS employees' former spouses, who meet the 10/5 requirement. Throughout the discussion below of this section, unless the context indicates otherwise, the term "former spouse" when used in reference to a CIA employee's former spouse, means only a former wife or husband who satisfies the 10/5 requirement.

Subsection 304(a) provides that the former spouse provisions in chapter 84 of Title 5, United States Code (as enacted by Section 101 of the conference report) do not apply to a CIA FERS employee who has a former spouse meeting the 10/5 requirement. Instead, the special rules provided in Section 304 apply to such an employee and former spouse. For a CIA FERS employee whose former spouse did not meet the 10/5 requirement, the normal former spouses provisions of chapter 84 of Title 5 (as enacted by Section 101 of the conference report) would apply.

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Subsection 304(b) provides that the provision in Section 221(b) (1) (C) of the CIA Retirement Act for a joint employee/former spouse waiver of a survivor annuity by spousal agreement applies with respect to the survivor annuity for a CIA FERS employee's former spouse under Section 304(c) (2).

Subsection 304(c) provides that certain specified provisions of the CIA Retirement Act of 1964 relating to CIA CIARDS employees apply equally to CIA FERS employees with respect to former spouses. The specified provisions made applicable deal with computation of annuities for former spouses, election of survivor benefits for former spouses, sharing of discontinued service (i.e., lump sum) benefits with former spouses, and the effect of payments under spousal agreements or court orders.

Subsection 304(d) provides technical special rules with respect to computation of annuities for CIA FERS employees' spouses in accordance with Section 222(a) of the CIA Retirement Act as made applicable by subsection 304(c). The special rules are necessary to take account of the recall and reemployment situations of CIA FERS employees and to take account that CIA FERS employees' contributions belong in the Civil Service Retirement and Disability Fund rather than the CIA Retirement and Disability Fund to which CIA CIARDS participants contribute.

Subsection 304(e) provides special rules relating to the survivor annuities of CIA FERS employees' former spouses under subsections 222(b) and (c) of the CIA Retirement Act as made applicable by Section 304(c). The special rules adjust the application of the CIA Retirement Act provisions made applicable to CIA FERS former spouses provisions in light of the former spouses provisions of chapter 84 of Title 5, United States Code (as enacted by

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Section 101 of the conference report) with respect to percentage of employee annuity used in calculating former spouse survivor benefits, the employee annuity base used in such calculation, survivor annuity election, aggregation of multiple survivor annuities, and employee contributions to fund elected survivor annuities.

Subsection 304(f) provides for computation of the reduction of a CIA FERS employee's annuity to provide survivor annuities in the manner provided by Section 8419(a) of Title 5, United States Code (as enacted by section 101 of the conference report).

Subsection 304(g) provides that the entitlement of a retired CIA FERS employee's former spouse to a portion of the employee's annuity extends to any annuity supplement the employee receives under Section 8421 of Title 5, United States Code (as enacted by Section 101 of the conference report).

Section 305 provides for administration by the Central Intelligence Agency of the FERS as it applies to CIA employees. The conferees concluded that CIA administration with respect to CIA employees of all retirement systems applicable to CIA employees forms an essential part of efforts to improve the protection afforded to intelligence sources, methods and activities.

Subsection 305(a) provides that the Director of Central Intelligence may, to the extent he considers appropriate, administer chapter 84 of Title 5, United States Code (i.e., the FERS) (as enacted by Section 101 of the conference report) as it applies to CIA personnel. In addition, the DCI may, to the extent he considers appropriate, perform with respect to CIA personnel the functions and duties (including with respect to disbursements from the

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Civil Service Retirement Fund and the Thrift Savings Fund, but not including Thrift Savings Fund investment decisions) of the Director, OPM and the Executive Director of the Federal Retirement Thrift Investment Board under chapter 84, which those officers would otherwise perform. Subsection 305(a) also sets forth specific rules regarding CIA recordkeeping, accounting, and disbursements relating to the Thrift Savings Plan. To the extent that the DCI does not exercise his authority to assume the functions and duties of OPM and the Executive Director with respect to CIA FERS employees, OPM and the Executive Director would continue to perform such functions and duties with respect to CIA FERS employees. Allowing the DCI to assume such functions and duties to the extent he considers appropriate will permit a phased, orderly assumption of retirement administration functions and duties by the CIA.

Subsection 305(b) provides that the Executive Director of the Thrift Investment Board may not exercise, with respect to CIA employees, authority under chapter 84 of Title 5, United States Code (i.e., the FERS) (as enacted by Section 101 of the conference report) to the extent that the DCI exercises his authority under Section 305(a) to assume such authority with respect to CIA employees.

Subsection 305(c) provides that the Director, OPM and the Executive Director of the Thrift Investment Board shall furnish to the DCI such information and services as the DCI determines that he needs to carry out Section 305. The CIA shall reimburse OPM for any such services.

Subsection 305(d) provides that Section 201(c) of the CIA Retirement Act, which provides for the finality and unreviewability of DCI administration of the CIA Retirement Act, applies to administration of FERS by the CIA with

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respect to CIA employees, except that regular CIA FERS employees may appeal certain adverse retirement decisions made by the DCI to the Merit Systems Protection Board and the federal courts as provided in Section 8461(e) of Title 5, United States Code (as enacted by Section 101 of the conference report).

Subsection 305(e) provides that Sections 8439(b), 8461(h)(1), and 8474(c)(4) of Title 5, United States Code (as enacted by section 101 of the conference report) shall be applied with respect to information relating to CIA personnel in a manner that protects intelligence sources, methods and activities. Section 8439(b) relates to auditing of the Thrift Savings Plan by a qualified public accountant and a report to the General Accounting Office. Section 8461(h)(1) relates to OPM access to information held by other agencies. Section 8474(c)(4) relates to Executive Director, Thrift Investment Board access to information held by other agencies. Although nothing in the Federal Employees' Retirement System Act of 1986, or the amendments made by the Act, impairs or affects statutes (such as Section 102(d)(3) of the National Security Act of 1947 and Sections 6 and 8 of the CIA Act of 1949) and Executive Orders (such as Executive Orders 12333 governing intelligence activities and 12356 governing national security information) regarding protection of intelligence sources, methods and activities, the conferees believed it appropriate to emphasize the requirement for such protection in Section 305(e) because the provisions of chapter 84 to which Section 305(e) refers specifically address the issue of access by one agency to information held by another agency. As a result of Section 305(e), security practices, including clearance requirements, normally applicable to intelligence information will apply in the administration of Sections 8439(b), 8461(h)(1), and 8474(c)(4) of Title 5 as they are applied with respect to CIA.

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Section 306 authorizes the DCI to prescribe in regulations (in consultation with the Director, OPM and the Executive Director of the Thrift Investment Board) appropriate procedures to carry out Title III of the CIA Retirement Act. The regulations must include procedures for the Director, OPM to inspect and audit CIA disbursements from the Civil Service Retirement and Disability Fund and for the Executive Director to inspect and audit CIA disbursements from the Thrift Savings Fund. The DCI must submit the regulations to the intelligence committees of the Congress before the regulations take effect.

Section 307 authorizes the DCI to provide by regulation for the transition from CIARDS to FERS for CIARDS participants electing to participate in the FERS. Section 307 gives CIA CIARDS employees the same opportunity to elect to participate in the FERS as CIA CSRS employees enjoy under title III of the Federal Employees' Retirement System Act of 1986. The DCI must submit the regulations implementing Section 307 to the intelligence committees of the Congress before the regulations take effect.

Section 407: Administration of CSRS For Employees of the CIA

Section 407 amends Section 8347 of Title 5, United States Code, to add a new subsection 8347(n) to provide for CIA administration of the Civil Service Retirement System as it applies to CIA employees. Subsection 8347(n) provides for CIA administration of the CSRS as it applies to CIA employees in the same way as Section 305 of the CIA Retirement Act (as enacted by Section 406 of the

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conference report) provides for CIA administration of the FERS as it applies to CIA employees. The conferees concluded that CIA administration with respect to CIA employees of all retirement systems applicable to CIA employees forms an essential part of efforts to improve the protection afforded to intelligence sources, methods and activities.

Paragraph (1) of subsection 8347(n) provides that the Director of Central Intelligence may, to the extent he considers appropriate, administer subchapter III of chapter 83 of Title 5, United States Code (i.e., the CSRS) as it applies to CIA personnel. In addition, the DCI may, to the extent he considers appropriate, perform with respect to CIA personnel the functions and duties (including with respect to disbursements from the Civil Service Retirement Fund) of the Director, OPM under subchapter III of chapter 83, which that officer would otherwise perform. To the extent that the DCI does not exercise his authority to assume the functions and duties of OPM with respect to CIA CSRS employees, OPM would continue to perform such functions and duties with respect to CIA CSRS employees. Allowing the DCI to assume such functions and duties to the extent he considers appropriate will permit a phased, orderly assumption of retirement administration functions and duties by the CIA.

Paragraph (2) of subsection 8347(n) provides that the Director, OPM may not exercise, with respect to CIA CSRS employees, authority under subchapter III of chapter 84 of Title 5, United States Code (i.e., the FERS) (as enacted by Section 101 of the conference report) to the extent that the DCI exercises his authority under Section 8437(n) (1) to assume such authority with respect to CIA CSRS employees.

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Paragraph (3) of subsection 8347(n) provides that the Director, OPM shall furnish to the DCI such information and services as the DCI determines that he needs to carry out paragraph 8347(n)(1). The CIA shall reimburse OPM for any such services.

Paragraph (4) of subsection 8347(n) provides that the DCI, in consultation with the Director, OPM, shall prescribe in regulations appropriate procedures to carry out subsection 8347(n). Such regulations shall provide procedures for the Director, OPM to inspect and audit CIA disbursements from the Civil Service Retirement and Disability Fund. The DCI must submit the regulations to the intelligence committees of the Congress before the regulations take effect.

Paragraph (5) of subsection 8347(n) provides that Section 201(c) of the CIA Retirement Act, which provides for the finality and unreviewability of DCI administration of the CIA Retirement Act, applies to administration of CSRS by the CIA with respect to CIA employees, except that CIA CSRS employees may appeal certain adverse retirement decisions made by the DCI to the Merit Systems Protection Board and the federal courts as provided in Section 8347(d) of Title 5, United States Code.

Section 408: Special Retirement Accrual for Other Intelligence Personnel

Section 408 extends, to a limited number of civilian employees of the National Security Agency and the Defense Intelligence Agency covered by the CSRS and the FERS, the special retirement accrual benefit provided to CIA regular FERS employee for periods of overseas service by Section 303 of the

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CIA Retirement Act (as enacted by Section 406 of the conference report). The conferees concluded that NSA and DIA civilian employees within the groups covered by Section 9(b)(1)(B) of the NSA Act of 1959 and Section 1605(a) of Title 10 of the United States Code merit treatment equivalent to that afforded CIA regular FERS employees for periods of service abroad because of the nature of their intelligence duties.

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1 TITLE V--CENTRAL INTELLIGENCE AGENCY RETIREMENT AND RELATED
2 MATTERS

3 SEC. 501. REFERENCES.

4 The Central Intelligence Agency Retirement Act of 1964
5 for Certain Employees (78 Stat. 1043; 50 U.S.C. 403 note) is
6 amended--

7 (1) in section 201(c), by inserting "(except section
8 305(d) of this Act)" after "or any other provisions of
9 law";

10 (2) by striking out "this Act" each place it
11 appears in title II except in sections 201 and 264, and
12 inserting in lieu thereof "this title"; and

13 (3) by inserting "under this title" after "payable
14 from the fund" each place it appears in title II.

15 SEC. 502. CONTRIBUTIONS TO THE CENTRAL INTELLIGENCE AGENCY
16 RETIREMENT AND DISABILITY SYSTEM.

17 Section 211 of the Central Intelligence Agency Retirement
18 Act of 1964 for Certain Employees is amended--

19 (1) by striking out "Seven" in the first sentence
20 of subsection (a) and inserting in lieu thereof "Except
21 as provided in subsection (d), seven"; and

22 (2) by adding at the end thereof the following new
23 subsection (d):

24 "(d)(1) In the case of a participant who was a
25 participant subject to this title before January 1, 1984, and

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?

1 whose service--

2 “(A) is employment for the purposes of title II of
3 the Social Security Act and chapter 21 of the Internal
4 Revenue Code of 1954, and

5 “(B) is not creditable service for any purpose under
6 title III of this Act or chapter 84 of title 5, United
7 States Code,

8 there shall be deducted and withheld from the basic pay of
9 the participant under this subsection during any pay period
10 only the amount computed pursuant to paragraph (2).

11 “(2) The amount deducted and withheld from the basic pay
12 of a participant during any pay period pursuant to paragraph
13 (1) shall be the excess of--

14 “(A) the amount determined by multiplying the
15 percent applicable to the participant under subsection
16 (a) by the basic pay payable to the participant for such
17 pay period, over

18 “(B) the amount of the taxes deducted and withheld
19 from such basic pay under section 3101(a) of the Internal
20 Revenue Code of 1954 (relating to old-age, survivors, and
21 disability insurance) for such pay period.”.

22 SEC. 503. OFFSET OF ANNUITY BY THE AMOUNT OF SOCIAL SECURITY
23 BENEFITS.

24 Section 221 of the Central Intelligence Agency Retirement
25 Act of 1964 for Certain Employees is amended by adding at the

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1 end thereof the following new subsection:

2 “(p)(1) Notwithstanding any other provision of this
3 title, except as provided in paragraph (2), an annuity
4 (including a disability annuity) payable under this title to
5 an individual described in section 301(c)(1) and an survivor
6 annuity payable under this title on the basis of the service
7 of such individual shall be reduced in a manner consistent
8 with section [8349] of title 5, United States Code, under
9 conditions consistent with the conditions prescribed in such
10 section.

11 “(2) This section shall not apply with respect to any
12 annuity, or survivor annuity, which is based on the service
13 of an individual described in section 301(c)(2).”.

14 SEC. 504. THRIFT SAVINGS FUND PARTICIPATION BY PARTICIPANTS
15 IN THE CENTRAL INTELLIGENCE AGENCY RETIREMENT
16 AND DISABILITY SYSTEM.

17 Part K of title II of the Central Intelligence Agency
18 Retirement Act of 1964 for Certain Employees is amended by
19 adding at the end thereof the following new section:

20 “THRIFT SAVINGS FUND PARTICIPATION BY PARTICIPANTS IN THE
21 CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

22 “Sec. 293. (a) Participants in the Central Intelligence
23 Agency Retirement and Disability System shall be deemed to be
24 employees for the purposes of section [8351] of title 5,
25 United States Code.

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1 “(b) Section 305 of this Act shall apply with respect to
2 contributions made by officers and employees of the Agency to
3 the Thrift Savings Fund under section [8351] of title 5,
4 United States Code, and to earnings attributable to the
5 investment of such contributions.”.

6 SEC. 505. ALTERNATIVE FORMS OF ANNUITIES.

7 Part K of title II of the Central Intelligence Agency
8 Retirement Act of 1964 for Certain Employees (as amended by
9 section 504 of this Act) is further amended by adding at the
10 end thereof the following new section:

11 “ALTERNATIVE FORMS OF ANNUITIES

12 “Sec. 294. (a) The Director shall prescribe regulations
13 under which an officer or employee of the Agency may, at the
14 time of retiring under this title (other than under section
15 231), elect annuity benefits under this section instead of
16 any other benefits under this title (including any survivor
17 benefits under this title) based on the service of the
18 officer or employee creditable under this title. The
19 regulations and alternatives shall, to the maximum extent
20 practicable, meet the requirements prescribed in section
21 [8343a] of title 5, United States Code.

22 “(b) The Director shall submit the regulations
23 prescribed under subsection (a) to the Select Committee on
24 Intelligence of the Senate and the Permanent Select Committee
25 on Intelligence of the House of Representatives before the

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1 regulations take effect.''.
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3 SEC. 506. PARTICIPATION IN THE FEDERAL EMPLOYEES' RETIREMENT
4 SYSTEM.

5 The Central Intelligence Agency Retirement Act of 1964
6 for Certain Employees is amended by adding at the end thereof
7 the following:

8 ``TITLE III--PARTICIPATION IN THE FEDERAL EMPLOYEES'
9 RETIREMENT SYSTEM

10 ``APPLICATION OF FEDERAL EMPLOYEES' RETIREMENT SYSTEM TO
11 AGENCY EMPLOYEES

12 ``Sec. 301. (a) Except as provided in subsection (b) and
13 (c), all officers and employees of the Agency, any of whose
14 service after December 31, 1983, is employment for the
15 purpose of title II of the Social Security Act and chapter 21
16 of the Internal Revenue Code of 1954, shall be subject to
17 chapter 84 of title 5, United States Code.

18 `` (b) Participants in the Central Intelligence Agency
19 Retirement and Disability System who were participants in
20 such system on or before December 31, 1983, and who have not
21 had a break in service in excess of 1 year since that date,
22 are not subject to chapter 84 of title 5, United States Code,
23 without regard to whether they are subject to title II of the
24 Social Security Act.

25 `` (c) (1) The provisions of chapter 84 of title 5, United
States Code, shall not apply with respect to--

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1 “(A) any individual who separates, or who has
2 separated, from Federal Government service after having
3 been an officer or employee of the Agency subject to
4 title II of this Act; and

5 “(B) any officer or employee of the Agency having at
6 least 5 years of civilian service which was performed
7 before January 1, 1987, and is creditable under title II
8 of this Act (determined without regard to any deposit or
9 redeposit requirement under subchapter III of chapter 83
10 of title 5, United States Code, or under title II of this
11 Act, or any requirement that the individual become
12 subject to such subchapter or to title II of this Act
13 after performing the service involved).

14 “(2) Paragraph (1) shall not apply with respect to an
15 individual who has elected under regulations prescribed under
16 section 307 of this Act to become subject to chapter 84 of
17 title 5, United States Code, to the extent provided in such
18 regulations.

19 “(3) An individual described in paragraph (1) shall be
20 deemed to be an individual excluded under section
21 [8402(b)(2)] of title 5, United States Code.

22 “(d) The application of the provisions of chapter 84 of
23 title 5, United States Code, to officers and employees
24 referred to in subsection (a) shall be subject to the
25 exceptions and special rules provided in this title. Any

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1 provision of such chapter which is inconsistent with a
2 special rule provided in this title shall not apply to such
3 officers and employees.

4 ``SPECIAL RULES RELATING TO SECTION 203 CRITERIA EMPLOYEES

5 ``Sec. 302. (a) Except as otherwise provided in this
6 section, in the application of chapter 84 of title 5, United
7 States Code, to an officer or employee of the Agency who is
8 subject to such chapter and is designated by the Director
9 under the criteria prescribed in section 203, such officer or
10 employee shall be treated for purposes of determining such
11 officer's or employee's retirement benefits and obligations
12 under such chapter as if the officer or employee were a law
13 enforcement officer (as defined in section [8401(17)] of
14 title 5, United States Code).

15 `` (b) The provisions of sections 233 and 235 of this Act
16 shall apply to officers and employees referred to in
17 subsection (a), except that the retirement benefits shall be
18 determined under the provisions of chapter 84 of title 5,
19 United States Code.

20 `` (c)(1) Except as provided in paragraph (2), section 271
21 of this Act shall apply to an officer or employee referred to
22 in subsection (a).

23 `` (2) Contributions during recall service shall be made
24 as provided in section [8422] of title 5, United States Code.

25 `` (3) When an officer or employee recalled under this

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1 subsection reverts to a retired status, the annuity of such
2 officer or employee shall be redetermined under the
3 provisions of chapter 84 of title 5, United States Code.

4 ``SPECIAL RULES FOR OTHER EMPLOYEES FOR SERVICE ABROAD

5 ``Sec. 303. (a) Notwithstanding any provision of chapter
6 84 of title 5, United States Code, the annuity under
7 subchapter II of such chapter of a retired officer or
8 employee of the Agency who is not designated under section
9 302(a) of this Act and has served abroad as an officer or
10 employee of the Agency shall be computed as provided in
11 subsection (b).

12 `` (b)(1) The portion of the annuity relating to service
13 abroad performed on or after the effective date of the
14 Federal Employees' Retirement System Act of 1986 shall be
15 computed as provided in section [8415(d)] of title 5, United
16 States Code.

17 `` (2) The portions of the annuity relating to other
18 service in the Agency shall be computed as provided in the
19 provision of section [8415] of such title that is applicable
20 to such service under the conditions prescribed in chapter 84
21 of such title.

22 ``SPECIAL RULES FOR FORMER SPOUSES

23 ``Sec. 304. (a) Section [8445] of title 5, United States
24 Code, and [subsections (d) and (e) of section 8435] of such
25 title shall not apply in the case of an officer or employee

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1 of the Agency who is subject to chapter 84 of title 5, United
2 States Code, who has a former spouse (as defined in section
3 204(b)(4) of this Act). Any reference in such chapter to a
4 survivor annuity for a former spouse, as applied to such
5 officer or employee, shall be deemed to refer to a survivor
6 annuity for a former spouse of such officer or employee
7 provided under subsection (c) of this section.

8 “(b) Section 221(b)(1)(C) of this Act shall apply to a
9 survivor annuity under subsection (c)(2) of this section.

10 “(c) Except as otherwise provided in this section, the
11 following provisions of title II of this Act shall apply in
12 the case of an officer or employee of the Agency who is
13 entitled to receive an annuity under subchapter II, III, or V
14 of chapter 84 of title 5, United States Code, in the same
15 manner as such provisions apply in the case of an officer or
16 employee of the Agency under title II:

17 “(1) Section 222, except that subsections (b) and
18 (c) of such section shall be subject to a waiver under
19 subsection (b) of this section.

20 “(2) Subsections (a), (b)(1), and (b)(3) of section
21 223 and the first sentence of subsection (c) of such
22 section.

23 “(3) Subsections (c) and (d) of section 234 (in the
24 case of any lump-sum payment under section [8424(a)] of
25 title 5, United States Code, and any payment under

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1 subsection (b)(3), (b)(4), (c)(3), (c)(4), or (d) of
2 section [8433] of such title).

3 ``(4) Section 263(b).

4 ``(d) In the application of section 222(a) under
5 subsection (c)(1)--

6 ``(1) the reference in paragraph (4)(B) of such
7 section to section 271, 272, or 273 of this Act shall be
8 deemed to refer to any similar provision of law
9 applicable to such officer or employee for purposes of
10 chapter 84 of title 5, United States Code;

11 ``(2) the amount of the reduction in the salary of a
12 recalled or reinstated officer or employee under such
13 paragraph (4)(B) shall be only the amount by which the
14 annuity under subchapter II or V of chapter 84 of title
15 5, United States Code, would have been reduced; and

16 ``(3) amounts to be deposited in the Treasury of the
17 United States pursuant to such paragraph (4)(B) shall be
18 credited to the Civil Service Retirement and Disability
19 Fund.

20 ``(e) In the application of subsections (b) and (c) of
21 section 222 under subsection (c)(2)--

22 ``(1) the percentage prescribed in subsections
23 (b)(1)(A), (b)(1)(B), (b)(4)(A), and (c)(2) of such
24 section shall be deemed to be 50 percent;

25 ``(2) for the purpose of computing the amount of the

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1 former spouse's annuity under subsection (b)(1) of such
2 section and the maximum amount of survivor annuities
3 under subsection (b)(4) or (c)(2) of such section, the
4 full amount of the deceased officer's or employee's
5 annuity--

6 “(A) in the case of an annuity under subchapter
7 II or V of chapter 84 of title 5, United States Code,
8 is the amount of such annuity computed without regard
9 to the reduction for survivor annuities; and

10 “(B) in the case of an annuity under subchapter
11 III of such chapter, is the amount of such annuity
12 computed on an actuarial basis as provided in such
13 subchapter taking into account the application of
14 section 222(b)(1) in the case of such annuity;

15 “(3) an election under subsection (b)(5)(B) of such
16 section shall apply with respect to a survivor annuity
17 for a spouse under section [8442] of title 5, United
18 States Code;

19 “(4) the reference in subsection (c)(2) of such
20 section to a survivor annuity for a spouse shall be
21 deemed to refer--

22 “(A) in the case of an annuity under subchapter
23 II or V of chapter 84 of title 5, United States Code,
24 to the survivor annuity provided in section [8442] of
25 title 5, United States Code; and

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1 “(B) in the case of an annuity under subchapter
2 III of such chapter, to the survivor annuity
3 described in section [8435(c)] of such title; and

4 “(5) the fund referred to in subsections (c)(3)(A)
5 and (c)(3)(B) of such section shall be deemed to refer--

6 “(A) in the case of an annuity under subchapter
7 II or V of chapter 84 of title 5, United States Code,
8 to the Civil Service Retirement and Disability Fund;
9 and

10 “(B) in the case of an annuity under subchapter
11 III of such chapter, the Thrift Savings Fund
12 established by section [8437] of such title.

13 “(f) A reduction in the annuity of an officer or
14 employee of the Agency to provide a survivor annuity or
15 survivor annuities under this section shall be computed as
16 provided in section [8419(a)] of title 5, United States Code.

17 “(g) The entitlement of a former spouse to a portion of
18 an annuity of a retired officer or employee of the Agency
19 under this section shall extend to any supplementary annuity
20 payment that such officer or employee is entitled to receive
21 under section [8421] of title 5, United States Code.

22 “ADMINISTRATIVE PROVISIONS

23 “Sec. 305. (a) Section 201(c) of this Act shall apply in
24 the administration of chapter 84 of title 5, United States
25 Code, with respect to officers and employees of the Agency.

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1 “(b) Notwithstanding subsection (a), section [8461(e)]
2 of title 5, United States Code, shall apply with respect to
3 officers and employees of the Agency who are not participants
4 in the Central Intelligence Agency Retirement and Disability
5 System and are not designated under section 302(a) of this
6 Act.

7 “REGULATIONS

8 “Sec. 306. (a) The Director, in consultation with the
9 Director of the Office of Personnel Management and the
10 Executive Director of the Federal Retirement Thrift
11 Investment Board, shall prescribe in regulations appropriate
12 procedures to carry out this title.

13 “(b) The regulations shall include procedures for the
14 Director of the Office of Personnel Management to inspect and
15 audit disbursements from the Civil Service Retirement and
16 Disability Fund.

17 “(c) The Director shall submit the regulations
18 prescribed under subsection (a) to the Select Committee on
19 Intelligence of the Senate and the Permanent Select Committee
20 on Intelligence of the House of Representatives before the
21 regulations take effect.

22 “TRANSITION PROVISIONS

23 “Sec. 307. (a) The Director shall issue regulations
24 providing for the transition from the Central Intelligence
25 Agency Retirement and Disability System to the Federal

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1 Employees' Retirement System provided in chapter 84 of title
2 5, United States Code, in a manner consistent with sections
3 301 through 304 of the Federal Employees' Retirement System
4 Act of 1986.

5 "(b) The Director shall submit the regulations
6 prescribed under subsection (a) to the Select Committee on
7 Intelligence of the Senate and the Permanent Select Committee
8 on Intelligence of the House of Representatives before the
9 regulations take effect."

10 SEC. 507. SPECIAL RETIREMENT ACCRUAL FOR OTHER INTELLIGENCE
11 PERSONNEL.

12 (a) Certain National Security Agency Personnel.--Section
13 9(b)(1)(B) of the National Security Agency Act of 1959 (50
14 U.S.C. 402 note) is amended by inserting before the semicolon
15 the following: "(including special retirement accrual in the
16 same manner provided in section 303 of the Central
17 Intelligence Agency Retirement Act of 1964 for Certain
18 Employees (50 U.S.C. 403 note))".

19 (b) Certain Defense Intelligence Agency Personnel.--
20 Section 1605(a) of title 10, United States Code, is amended
21 by adding at the end thereof the following: "The Secretary
22 may also provide to any such civilian personnel who are
23 subject to chapter 84 of title 5, special retirement accrual
24 benefits in the same manner provided for certain officers and
25 employees of the Central Intelligence Agency in section 303

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1 of the Central Intelligence Agency Retirement Act of 1964 for
2 Certain Employees (50 U.S.C. 403 note).''.

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